

Prison Labor

Definitions.

- Confinement: The state of being confined.
Imprisonment: The state of being imprisoned.
Incarceration: The state of being imprisoned or confined.
Penal Servitude: Imprisonment together with Hard Labor.
Hard Labor: Compulsory labor imposed upon criminals
in addition to Imprisonment.

The issue we address here pertains to legislative sentencing law. As noted above, Penal Servitude, that is, slavery imposed as punishment for crime, exists only as the combination of two separate and distinct components of punishment. These components are:

1. Imprisonment, and
2. Hard Labor.

Penal Servitude can neither exist in genuine form nor be legally enforced in facsimile form in the absence of either of these component punishments. This multi-prong principle pervades the American legal system, not only in the legislative but also in the judicial branch of government. For example, consider the following:

Legislative criminal law.

Simple robbery, for instance, stealing a bicycle from its owner, is a crime with only one component, but stealing the bicycle from its owner, at knifepoint is a crime of two components: 1) the robbery and 2) the aggravating factor of threat (represented by the knife). The crime becomes aggravated only if and when both components exist. Note: This is a simplified example for illustrative purposes only; many aggravating factors exist.

Judicial case law.

Strickland v. Washington, 466 U.S. 387 (1984), mandates two prongs in the fulfillment of an Ineffective Assistance of Counsel (IAC) claim. In an application for habeas corpus relief, if claiming IAC, the applicant must fulfill the requirements of both prongs to succeed in the claim. These prongs are: 1) the applicant must demonstrate that defense counsel's performance fell below a very liberal and forgiving standard of professional performance, and 2) the applicant must also demonstrate that counsel's deficient performance resulted in harm to the applicant (counsel's client). If the applicant fails to fulfill the requirement of either prong the claim fails.

Both prongs must be satisfied. Imprisonment can be adjudicated to include or to exclude Hard Labor, but in its absence compulsory labor lacks legal grounds.

The Thirteenth Amendment of the Constitution of the United States proclaims:

Section 1: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

Section 2: "Congress shall have power to enforce this article by appropriate legislation."

To cognize this text accurately, one must understand the indubitable importance of language in the architecture of law, and its importance cannot be understated. And what is the Constitution but the supreme law of the land.

Let us now turn our attention to how this Amendment is used—misused, as it turns out—by the prison institution to exploit prisoners by coercing them to labor. As an example, let us consider my personal circumstance. Having been judged guilty, I was sentenced to serve thirty years confinement (with no possibility of parole). Citing the Thirteenth Amendment as its authority, the prison institution, under threat of disciplinary action, compels me to

labor—uncompensated by any means—even though I was not sentenced to Hard Labor by the sentencing court. Recall that Hard Labor is compulsory labor in addition to confinement. Nowhere on the Court Order committing me to prison are found the words Hard Labor (nor labor of any character), Penal Servitude or slavery; rather my sentencing judge adjudicated my sole punishment to be Confinement. I would postulate, in fact, that no prisoner in modern day America has been sentenced to hard labor. Compelling a prisoner to labor, therefore, most especially in the absence of fair and just compensation, is a crass violation of constitutional law, unless that prisoner has been sentenced by the court to Hard Labor—the appropriate legislation for such compulsion. It is worth noting here, however, that, even in the presence of compensation, compulsion to labor, in the abandon of appropriate legislation, would remain a violation of law, as the Thirteenth Amendment's address, both by the letter of the law and by its spirit, lies with the compulsion of labor and not with the compensation for doing so.

If the court's intent is to commit one into slavery or servitude, as authorized by the Thirteenth Amendment, the appropriate legislation to accomplish this intent is a punishment sentence of Hard Labor. Absent this sentence one must conclude and concede that Penal Servitude was not the intent of the Court. A sentence of Confinement alone is inappropriate legislation for such a purpose, as it is not inclusive of the compulsory labor component required to constitute Penal Servitude.

The Court would decree a fine be paid if such was its intention.

The Court would dictate restitution be paid if such was its intention.

And likewise, the Court would order Hard Labor be served if such was its intention.

The moral of this story is that slavery or involuntary servitude, as authorized by the Thirteenth Amendment, can only exist as the progeny of the conjugal relationship between Imprisonment and Hard Labor.

Interestingly, the language of the Thirteenth Amendment also illegitimizes the military draft, for what is the military draft but involuntary military service. What does this mean? It means that every person who has been compelled (i.e., drafted) to serve in the U.S. military since the enactment of this amendment, in 1865, has been so compelled illegally, unless such compulsion was decreed as a punishment for crime whereof the subject had been duly convicted. Note: This does not affect those who registered for the Draft or Selective Service but were never inducted into service.